

AGENDA ITEM 9

UPDATE AND DISCUSSION OF THE OCCUPATIONAL THERAPY LICENSURE COMPACT.

The following are attached:

- OT Draft Compact
- OT Compact Section Summary

OT Compact – Summary of Key Provisions

Section 1: Purpose

The purpose of the compact is to facilitate interstate practice of occupational therapy with the goal of improving public access to occupational therapy services while preserving the regulatory authority of states to protect public health and safety through the current system of state licensure.

- Provides for the mutual recognition of other member state licenses.
- Enhances states' abilities to protect public health and safety.
- Encourages cooperation of member states in regulating multi-state OT practice.
- Supports spouses of relocating military members and their spouses.
- Enhances the exchange of licensure, investigative, and disciplinary information between member states.
- Allows a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards.
- Facilitates the use of telehealth technology.

Section 2: Definitions

Establishes the definitions of key terms as used throughout the compact, to alleviate confusion on the part of practitioners and jurisdictions. Defined terms are capitalized throughout the document.

Section 3: State Participation in the Compact

This section establishes the parameters of state participation in the compact.

A member state must:

- License occupational therapists and occupational therapy assistants.
- Participate in the compact commission's data collection system.
- Have a mechanism in place for receiving and investigating complaints against licensees.
- Notify the commission of any adverse action or investigation against a licensee.
- Conduct criminal background checks of initial applicants for compact privilege.
- Comply with the rules of the compact commission.
- Utilize only a recognized national exam as a requirement for an occupational therapist's and occupational therapy assistant's licensure.
- Require continuing education for license renewal.
- Grant the compact privilege to a holder of a valid license in another member state.
- Provide for the state's delegate to attend all compact commission meetings.

States may charge a fee for granting the compact privilege.

A single state license issued to an individual *not residing* in that state does *not* confer the ability of a licensee to obtain a compact privilege.

A state's requirements for issuance of a single-state license are not affected.

Section 4: Compact Privilege

Section 4 establishes the requirements for exercising the compact privilege.

To exercise the compact privilege, a licensee must:

- Have a social security number or NPI.
- Hold a license in their home state that is a member of the compact.
- Have no active encumbrance on any state license, and no adverse actions against any license or compact privilege within the previous 2 years.
- Notify the compact commission of their intent to seek the compact privilege in a remote state.
- Meet any jurisprudence requirements in the remote state and pay any fees.
- Report to the commission any adverse action taken by a non-member state within 30 days after the action is taken.

The compact privilege is valid until the date of expiration of the home state license.

A licensee providing occupational therapy services in a remote is subject to the laws and regulations of the remote state.

A licensee loses the compact privilege in all member states if their home state license is encumbered or if their compact privilege is revoked in a remote state. The licensee remains ineligible for compact privilege for two years from the date of adverse action.

Section 5: Converting Compact Privileges

This section addresses licensees who change their primary state of residence to another compact member state in which they hold a compact privilege. This section establishes requirements for licensees to convert their compact privilege to a license in their new primary state of residence in accordance with rules established by the compact commission, as well as requirements of the member states to facilitate the conversion.

Nothing in the compacts prohibits a licensee from holding multiple single-state licenses

Nothing in the compact affects a member state's ability to issue a single-state license.

Section 6: Active Duty Military Personnel or their Spouses

This section allows an active duty servicemember, or their spouse, to designate a home state where the individual has a current license in good standing for purposes of utilizing the compact privilege. This state then serves as the individual's home state for as long as the servicemember is on active duty.

Section 7: Adverse Actions

This section clarifies that *only* a licensee's home state may take adverse action against a *home* license.

However, remote states may take adverse action against a licensee's compact privilege and may issue enforceable subpoenas for witnesses and evidence from other member states.

Home states must take reported adverse action from any member state into account, in accordance with the home state's laws.

If an occupational therapist or occupational therapy assistant changes their home state during an active investigation by their former home state, the former home state completes the investigation, takes appropriate action under its laws, and then reports its findings to the compact commission's data system. The data system administrator then notifies the licensee's new home state of any adverse action taken by the former home state.

Member states may initiate joint investigations of licensees and are required to share investigative materials in furtherance of any joint *or* single-state investigation of a licensee.

Member states must report any adverse action to the compact data system, which then promptly alerts the home state of this adverse action. Any member state may take adverse action based on the factual findings of a remote state.

Member states retain the right to require a licensee to participate in an alternative program in lieu of adverse action.

Section 8: Establishment of the Occupational Therapy Compact Commission

This section outlines the composition and powers of the compact commission and executive committee.

- Each member state is entitled to one (1) delegate, who is selected by the member state's licensing board.
- Delegates must be a current member of the Licensing Board, who is an Occupational Therapist, Occupational Therapy Assistant, a public member, or the board administrator
- Delegate terms are three (3) years, with a limit of two (2) terms.
- The commission may establish and maintain a code of ethics, bylaws, rules, a budget and financial records in order to carry out the compact.
- The commission shall elect an executive committee composed of nine members: seven members of the commission, one member of a recognized national occupational therapy professional organization and one member of a recognized national occupational therapy certification organization.
- All commission meetings shall be open to the public unless confidential or privileged information must be discussed.
- The compact is not a waiver of sovereign immunity.

Section 9: Data System

This section requires the sharing of licensee information by all compact states. A compact state shall submit a uniform dataset to the data system on all occupational therapists and occupational therapy assistants to whom this compact is applicable as required by the rules of the commission. This database will allow for the expedited sharing of disciplinary related information.

Information pertaining to a licensee in any member state will be available to any other member state, except that any submitted information that subsequently must be expunged from the submitting state's records will also be removed from the data system.

Section 10: Rulemaking

- Rules carry the force of law in all member states.
- A simple majority of member state legislatures may veto a rule of the commission.
- Changes to rules require a 30-day notice of proposed rulemaking, with an opportunity for a public hearing if one is requested by twenty-five (25) people or by a government agency.

Section 11: Oversight, Dispute Resolution, and Enforcement

Ensures compliance with the compact by member states. The procedures to be followed in the event of a failure by a member state to comply with the compact include:

- A period of technical assistance in remedying the situation
- Improved dispute resolution processes; and
- Termination from the compact in the event no other means of compliance has been successful.

The commission shall attempt to resolve any compact-related disputes that may arise between states.

Section 12: Date of Implementation, Withdrawal, and Amendment

The compact takes effect on the date of enactment by the tenth (10th) state.

States that join after this date are subject to the rules of the commission as they exist on the date when the compact becomes law in that state.

Member states may enact a law to repeal their membership in the compact. A state's withdrawal takes effect 6 months after enactment of such law.

Section 13: Construction and Severability

The compact is to be liberally construed to effectuate the purposes thereof.

The compact's provisions are severable, meaning that:

- If a provision of the compact is declared to conflict with the United States Constitution, all other provisions remain valid for all member states, and
- If a provision is held contrary to a member state's constitution, the compact retains its full force in all other states, and all other provisions remain valid in the affected state.

Section 14: Binding Effect of Compact and Other Laws

This section reiterates that occupational therapists and occupational therapy assistants are subject to the scope of practice in states where they are utilizing a compact privilege.

Compact commission rules and bylaws are binding on member states.

In the event of a conflict between a law of a member state and the compact, the state law is superseded to the extent of the conflict.

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1 SECTION 1. PURPOSE

2 The purpose of this Compact is to facilitate interstate practice of Occupational Therapy with the
3 goal of improving public access to Occupational Therapy services. The Practice of
4 Occupational Therapy occurs in the State where the patient/client is located at the time of the
5 patient/client encounter. The Compact preserves the regulatory authority of States to protect
6 public health and safety through the current system of State licensure.

7 This Compact is designed to achieve the following objectives:

- 8 A. Increase public access to Occupational Therapy services by providing for the mutual
9 recognition of other Member State licenses;
- 10 B. Enhance the States' ability to protect the public's health and safety;
- 11 C. Encourage the cooperation of Member States in regulating multi-State Occupational
12 Therapy Practice;
- 13 D. Support spouses of relocating military members;
- 14 E. Enhance the exchange of licensure, investigative, and disciplinary information between
15 Member States; and
- 16 F. Allow a Remote State to hold a provider of services with a Compact Privilege in that State
17 accountable to that State's practice standards.
- 18 G. Facilitate the use of Telehealth technology in order to increase access to Occupational
19 Therapy services.

20 SECTION 2. DEFINITIONS

21 As used in this Compact, and except as otherwise provided, the following definitions shall apply:

- 22 A. "Active Duty Military" means full-time duty status in the active uniformed service of the
23 United States, including members of the National Guard and Reserve on active duty orders
24 pursuant to 10 U.S.C. Chapter 1209 and Section 1211.
- 25 B. "Adverse Action" means any administrative, civil, equitable or criminal action permitted by a
26 State's laws which is imposed by a Licensing Board or other authority against an
27 Occupational Therapist or Occupational Therapy Assistant, including actions against an
28 individual's license or Compact Privilege such as revocation, suspension, probation,
29 monitoring of the Licensee, or restriction on the Licensee's practice.
- 30 C. "Alternative Program" means a non-disciplinary monitoring process approved by an
31 Occupational Therapy Licensing Board to address Impaired Practitioners.

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- 32 D. "Compact Privilege" means the authorization, which is equivalent to a license, granted by a
33 Remote State to allow a Licensee from another Member State to practice as an
34 Occupational Therapist or practice as an Occupational Therapy Assistant in the Remote
35 State under its laws and rules. The Practice of Occupational Therapy occurs in the Member
36 State where the patient/client is located at the time of the patient/client encounter.
- 37 E. "Continuing Competence/Education" means a requirement, as a condition of license
38 renewal, to provide evidence of participation in, and/or completion of, educational and
39 professional activities relevant to practice or area of work.
- 40 F. "Current Significant Investigative Information" means Investigative Information that a
41 Licensing Board, after an inquiry or investigation that includes notification and an opportunity
42 for the Occupational Therapist or Occupational Therapy Assistant to respond, if required by
43 State law, has reason to believe is not groundless and, if proved true, would indicate more
44 than a minor infraction.
- 45 G. "Data System" means a repository of information about Licensees, including but not limited
46 to, licensure, Investigative Information, Compact Privilege, and Adverse Action.
- 47 H. "Encumbered License" means a license in which an Adverse Action restricts the Practice of
48 Occupational Therapy by the Licensee and said Adverse Action has been reported to the
49 National Practitioners Data Bank (NPDB).
- 50 I. "Executive Committee" means a group of directors elected or appointed to act on behalf of,
51 and within the powers granted to them by, the Commission.
- 52 J. "Home State" means the Member State that is the Licensee's primary State of residence.
- 53 K. "Impaired Practitioner" means individuals whose professional practice is adversely affected
54 by substance abuse, addiction, or other health-related conditions.
- 55 L. "Investigative Information" means information, records, and/or documents received or
56 generated by an Occupational Therapy Licensing Board pursuant to an investigation.
- 57 M. "Jurisprudence Requirement" means the assessment of an individual's knowledge of the
58 laws and rules governing the Practice of Occupational Therapy in a State.
- 59 N. "Licensee" means an individual who currently holds an authorization from the State to
60 practice as an Occupational Therapist or as an Occupational Therapy Assistant.
- 61 O. "Member State" means a State that has enacted the Compact.
- 62 P. "Occupational Therapist" means an individual who is licensed by a State to practice
63 Occupational Therapy.

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- 64 Q. "Occupational Therapy Assistant" means an individual who is licensed by a State to assist in
65 the Practice of Occupational Therapy.
- 66 R. "Occupational Therapy," "Occupational Therapy Practice," and the "Practice of Occupational
67 Therapy" mean the care and services provided by an Occupational Therapist or an
68 Occupational Therapy Assistant as set forth in the Member State's statutes and regulations.
- 69 S. "Occupational Therapy Compact Commission" or "Commission" means the national
70 administrative body whose membership consists of all States that have enacted the
71 Compact.
- 72 T. "Occupational Therapy Licensing Board" or "Licensing Board" means the agency of a State
73 that is responsible for the licensing and regulation of Occupational Therapists and
74 Occupational Therapy Assistants.
- 75 U. "Remote State" means a Member State other than the Home State, where a Licensee is
76 exercising or seeking to exercise the Compact Privilege.
- 77 V. "Rule" means a regulation promulgated by the Commission that has the force of law.
- 78 W. "State" means any state, commonwealth, district, or territory of the United States of America
79 that regulates the Practice of Occupational Therapy.
- 80 X. "Single-State License" means an Occupational Therapist or Occupational Therapy Assistant
81 license issued by a Member State that authorizes practice only within the issuing State and
82 does not include a Compact Privilege in any other Member State.
- 83 Y. "Telehealth" means the application of telecommunication technology to deliver Occupational
84 Therapy services for assessment, intervention and/or consultation.

85 **SECTION 3. STATE PARTICIPATION IN THE COMPACT**

- 86 A. To participate in the Compact, a Member State shall:
- 87 1. License Occupational Therapists and Occupational Therapy Assistants
 - 88 2. Participate fully in the Commission's Data System, including using the Commission's
89 unique identifier as defined in Rules;
 - 90 3. Have a mechanism in place for receiving and investigating complaints about Licensees;
 - 91 4. Notify the Commission, in compliance with the terms of the Compact and Rules, of any
92 Adverse Action or the availability of Investigative Information regarding a Licensee;
 - 93 5. Implement or utilize procedures for considering the criminal history records of applicants
94 for an initial Compact Privilege. These procedures shall include the submission of
95 fingerprints or other biometric-based information by applicants for the purpose of

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96 obtaining an applicant's criminal history record information from the Federal Bureau of
97 Investigation and the agency responsible for retaining that State's criminal records.

98 a. A Member State shall fully implement a criminal background check
99 requirement, within a time frame established by Rule, by receiving the results of
100 the Federal Bureau of Investigation record search on criminal background checks
101 and use the results in making licensure decisions.

102 b. Communication between a Member State, the Commission and among
103 Member States regarding the verification of eligibility for licensure through the
104 Compact shall not include any information received from the Federal Bureau of
105 Investigation relating to a federal criminal records check performed by a Member
106 State under Public Law 92-544.

107 6. Comply with the Rules of the Commission;

108 7. Utilize only a recognized national examination as a requirement for licensure
109 pursuant to the Rules of the Commission; and

110 8. Have Continuing Competence/Education requirements as a condition for license
111 renewal.

112 B. A Member State shall grant the Compact Privilege to a Licensee holding a valid
113 unencumbered license in another Member State in accordance with the terms of the
114 Compact and Rules.

115 C. Member States may charge a fee for granting a Compact Privilege

116 D. A Member State shall provide for the State's delegate to attend all Occupational Therapy
117 Compact Commission meetings.

118 E. Individuals not residing in a Member State shall continue to be able to apply for a Member
119 State's Single-State License as provided under the laws of each Member State. However,
120 the Single-State License granted to these individuals shall not be recognized as granting the
121 Compact Privilege in any other Member State.

122 F. Nothing in this Compact shall affect the requirements established by a Member State for the
123 issuance of a Single-State License.

124 **SECTION 4. COMPACT PRIVILEGE**

125 A. To exercise the Compact Privilege under the terms and provisions of the Compact, the
126 Licensee shall:

127 1. Have a valid United States Social Security or National Practitioner Identification number;

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- 128 2. Hold a license in the Home State;
- 129 3. Have no encumbrance on any State license;
- 130 4. Be eligible for a Compact Privilege in any Member State in accordance with Section 4D,
131 G and H;
- 132 5. Have not had any Adverse Action against any license or Compact Privilege within the
133 previous 2 years;
- 134 6. Notify the Commission that the Licensee is seeking the Compact Privilege within a
135 Remote State(s);
- 136 7. Pay any applicable fees, including any State fee, for the Compact Privilege;
- 137 8. Meet any Jurisprudence Requirements established by the Remote State(s) in which the
138 Licensee is seeking a Compact Privilege; and
- 139 9. Report to the Commission Adverse Action taken by any non-Member State within 30
140 days from the date the Adverse Action is taken.
- 141 B. The Compact Privilege is valid until the expiration date of the Home State license. The
142 Licensee must comply with the requirements of Section 4A to maintain the Compact
143 Privilege in the Remote State.
- 144 C. A Licensee providing Occupational Therapy in a Remote State under the Compact Privilege
145 shall function within the laws and regulations of the Remote State.
- 146 D. Occupational Therapy Assistants practicing in a Remote State shall be supervised by an
147 Occupational Therapist licensed or holding a Compact Privilege in that Remote State.
- 148 E. A Licensee providing Occupational Therapy in a Remote State is subject to that State's
149 regulatory authority. A Remote State may, in accordance with due process and that State's
150 laws, remove a Licensee's Compact Privilege in the Remote State for a specific period of
151 time, impose fines, and/or take any other necessary actions to protect the health and safety
152 of its citizens. The Licensee is not eligible for a Compact Privilege in any State until the
153 specific time for removal has passed and all fines are paid.
- 154 F. If a Home State license is encumbered, the Licensee shall lose the Compact Privilege in any
155 Remote State until the following occur:
 - 156 1. The Home State license is no longer encumbered; and
 - 157 2. Two years have elapsed from the date of the Adverse Action.

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- 158 G. Once an Encumbered License in the Home State is restored to good standing, the Licensee
159 must meet the requirements of Section 4A to obtain a Compact Privilege in any Remote
160 State.
- 161 H. If a Licensee's Compact Privilege in any Remote State is removed, the individual shall lose
162 the Compact Privilege in any other Remote State until the following occur:
- 163 1. The specific period of time for which the Compact Privilege was removed has ended;
 - 164 2. All fines have been paid;
 - 165 3. Two years have elapsed from the date of the Adverse Action; and
 - 166 4. The Compact Privileges are reinstated or restored through a revision to the compact
167 Data System.
- 168 I. If a Licensee's Compact Privilege in any Remote State is removed due to an erroneous
169 charge, privileges shall be restored through a revision to the compact Data System.
- 170 J. Once the requirements of Section 4H have been met, the license must meet the
171 requirements in Section 4A to obtain a Compact Privilege in a Remote State.

172 **SECTION 5: CONVERTING COMPACT PRIVILEGES**

- 173 A. An Occupational and an Occupational Therapy Assistant may hold a license, issued by the
174 Home State which allows for Compact Privileges, in only one Member State at a time.
- 175 B. If an Occupational Therapist or Occupational Therapy Assistant changes primary State of
176 residence by moving between two Member States:
- 177 1. The Occupational Therapist or Occupational Therapy Assistant shall notify the current
178 and new Member States in accordance with applicable Rules adopted by the
179 Commission.
 - 180 2. The current Home State shall deactivate the current license and the new Home State
181 shall activate the new license in accordance with applicable Rules adopted by the
182 Commission.
 - 183 3. The activation of the license in the new Home State shall be based upon the same
184 criteria as in Section 4, which allows an Occupational Therapist or an Occupational
185 Therapy Assistant to have Compact Privileges to work in a Member State.
 - 186 4. If the Occupational Therapist or Occupational Therapy Assistant cannot meet the criteria
187 in Section 4, the new Home State shall apply its requirements for issuing a new Single-
188 State License.

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189 5. The Occupational Therapist or the Occupational Therapy Assistant shall pay all
190 applicable fees to the new Home State in order to be issued a new Home State license.

191 C. If an Occupational Therapist or Occupational Therapy Assistant changes primary State of
192 residence by moving from a Member State to a non-Member State, or from a non-Member
193 State to a Member State, the State criteria shall apply for issuance of a Single-State License
194 in the new State.

195 D. Nothing in this compact shall interfere with a Licensee's ability to hold a Single-State
196 License in multiple States, however for the purposes of this compact, a Licensee shall have
197 only one Home State license.

198 E. Nothing in this Compact shall affect the requirements established by a Member State for the
199 issuance of a Single-State License.

200 **SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES**

201 Active Duty Military personnel, or their spouse, shall designate a Home State where the
202 individual has a current license in good standing. The individual may retain the Home State
203 designation during the period the service member is on active duty. Subsequent to
204 designating a Home State, the individual shall only change their Home State through
205 application for licensure in the new State.

206 **SECTION 7. ADVERSE ACTIONS**

207 A. A Home State shall have exclusive power to impose Adverse Action against a license
208 issued by the Home State.

209 B. In addition to the other powers conferred by State law, a Remote State shall have the
210 authority, in accordance with existing State due process law, to:

211 1. Take Adverse Action against an Occupational Therapist's or Occupational Therapy
212 Assistant's Compact Privilege within that Member State.

213 2. Issue subpoenas for both hearings and investigations that require the attendance and
214 testimony of witnesses as well as the production of evidence. Subpoenas issued by a
215 Licensing Board in a Member State for the attendance and testimony of witnesses or the
216 production of evidence from another Member State shall be enforced in the latter State
217 by any court of competent jurisdiction, according to the practice and procedure of that
218 court applicable to subpoenas issued in proceedings pending before it. The issuing
219 authority shall pay any witness fees, travel expenses, mileage and other fees required
220 by the service statutes of the State in which the witnesses or evidence are located.

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- 221 3. Only the Home State shall have the power to take Adverse Action against an
222 Occupational Therapist's or Occupational Therapy Assistant's license issued by the
223 Home State.
- 224 C. For purposes of taking Adverse Action, the Home State shall give the same priority and
225 effect to reported conduct received from a Member State as it would if the conduct had
226 occurred within the Home State. In so doing, the Home State shall apply its own State laws
227 to determine appropriate action.
- 228 D. The Home State shall complete any pending investigations of an Occupational Therapist or
229 Occupational Therapy Assistant who changes primary State of residence during the course
230 of the investigations. The Home State, where the investigations were initiated, shall also
231 have the authority to take appropriate action(s) and shall promptly report the conclusions of
232 the investigations to the OT Compact Commission Data System. The Occupational Therapy
233 Compact Commission Data System administrator of the coordinated licensure information
234 system shall promptly notify the new Home State of any Adverse Actions.
- 235 E. A Member State, if otherwise permitted by State law, may recover from the affected
236 Occupational Therapist or Occupational Therapy Assistant the costs of investigations and
237 disposition of cases resulting from any Adverse Action taken against that Occupational
238 Therapist or Occupational Therapy Assistant.
- 239 F. A Member State may take Adverse Action based on the factual findings of the Remote
240 State, provided that the Member State follows its own procedures for taking the Adverse
241 Action.
- 242 G. Joint Investigations
- 243 1. In addition to the authority granted to a Member State by its respective State
244 Occupational Therapy laws and regulations or other applicable State law, any Member
245 State may participate with other Member States in joint investigations of Licensees.
- 246 2. Member States shall share any investigative, litigation, or compliance materials in
247 furtherance of any joint or individual investigation initiated under the Compact.
- 248 H. If an Adverse Action is taken by the Home State against an Occupational Therapist's or
249 Occupational Therapy Assistant's license, the Occupational Therapist's or Occupational
250 Therapy Assistant's Compact Privilege in all other Member States shall be deactivated until
251 all encumbrances have been removed from the State license. All Home State disciplinary
252 orders that impose Adverse Action against an Occupational Therapist's or Occupational
253 Therapy Assistant's license shall include a Statement that the Occupational Therapist's or
254 Occupational Therapy Assistant's Compact Privilege is deactivated in all Member States
255 during the pendency of the order.

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256 I. If a Member State takes Adverse Action, it shall promptly notify the administrator of the Data
257 System. The administrator of the Data System shall promptly notify the Home State of any
258 Adverse Actions by Remote States.

259 J. Nothing in this Compact shall override a Member State's decision that participation in an
260 Alternative Program may be used in lieu of Adverse Action.

261 **SECTION 8. ESTABLISHMENT OF THE OCCUPATIONAL THERAPY COMPACT** 262 **COMMISSION.**

263 A. The Compact Member States hereby create and establish a joint public agency known as
264 the Occupational Therapy Compact Commission:

265 1. The Commission is an instrumentality of the Compact States.

266 2. Venue is proper and judicial proceedings by or against the Commission shall be brought
267 solely and exclusively in a court of competent jurisdiction where the principal office of the
268 Commission is located. The Commission may waive venue and jurisdictional defenses to
269 the extent it adopts or consents to participate in alternative dispute resolution
270 proceedings.

271 3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

272 B. Membership, Voting, and Meetings

273 1. Each Member State shall have and be limited to one (1) delegate selected by that
274 Member State's Licensing Board.

275 2. The delegate shall be a current member of the Licensing Board, who is an Occupational
276 Therapist, Occupational Therapy Assistant, public member, or the board administrator.

277 3. Any delegate may be removed or suspended from office as provided by the law of the
278 State from which the delegate is appointed.

279 4. The Member State board shall fill any vacancy occurring in the Commission within 60
280 days.

281 5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of Rules
282 and creation of bylaws and shall otherwise have an opportunity to participate in the
283 business and affairs of the Commission. A delegate shall vote in person or by such other
284 means as provided in the bylaws. The bylaws may provide for delegates' participation in
285 meetings by telephone or other means of communication.

286 6. The Commission shall meet at least once during each calendar year. Additional
287 meetings shall be held as set forth in the bylaws.

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- 288 7. Terms for delegates shall be three (3) years. Delegates shall not serve more than two
289 (2) terms.
- 290 C. The Commission shall have the following powers and duties:
- 291 1. Establish a Code of Ethics for the Commission
- 292 2. Establish the fiscal year of the Commission;
- 293 3. Establish bylaws;
- 294 4. Maintain its financial records in accordance with the bylaws;
- 295 5. Meet and take such actions as are consistent with the provisions of this Compact and
296 the bylaws;
- 297 6. Promulgate uniform Rules to facilitate and coordinate implementation and administration
298 of this Compact. The Rules shall have the force and effect of law and shall be binding in
299 all Member States;
- 300 7. Bring and prosecute legal proceedings or actions in the name of the Commission,
301 provided that the standing of any State Occupational Therapy Licensing Board to sue or
302 be sued under applicable law shall not be affected;
- 303 8. Purchase and maintain insurance and bonds;
- 304 9. Borrow, accept, or contract for services of personnel, including, but not limited to,
305 employees of a Member State;
- 306 10. Hire employees, elect or appoint officers, fix compensation, define duties, grant such
307 individuals appropriate authority to carry out the purposes of the Compact, and to
308 establish the Commission's personnel policies and programs relating to conflicts of
309 interest, qualifications of personnel, and other related personnel matters;
- 310 11. Accept any and all appropriate donations and grants of money, equipment, supplies,
311 materials and services, and to receive, utilize and dispose of the same; provided that at
312 all times the Commission shall avoid any appearance of impropriety and/or conflict of
313 interest;
- 314 12. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold,
315 improve or use, any property, real, personal or mixed; provided that at all times the
316 Commission shall avoid any appearance of impropriety;
- 317 13. Sell convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any
318 property real, personal, or mixed;
- 319 14. Establish a budget and make expenditures;

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- 320 15. Borrow money;
- 321 16. Appoint committees, including standing committees composed of members, State
322 regulators, State legislators or their representatives, and consumer representatives, and
323 such other interested persons as may be designated in this Compact and the bylaws;
- 324 17. Provide and receive information from, and cooperate with, law enforcement agencies;
- 325 18. Establish and elect an Executive Committee; and
- 326 19. Perform such other functions as may be necessary or appropriate to achieve the
327 purposes of this Compact consistent with the State regulation of Occupational Therapy
328 licensure and practice.

329 D. The Executive Committee

330 The Executive Committee shall have the power to act on behalf of the Commission according to
331 the terms of this Compact.

- 332 1. The Executive Committee shall be composed of nine members:
- 333 a. Seven voting members who are elected by the Commission from the current
334 membership of the Commission;
- 335 b. One ex-officio, nonvoting member from a recognized national Occupational Therapy
336 professional association; and
- 337 c. One ex-officio, nonvoting member from a recognized national Occupational Therapy
338 certification organization
- 339 2. The ex-officio members will be selected by their respective organizations.
- 340 3. The Commission may remove any member of the Executive Committee as provided in
341 bylaws.
- 342 4. The Executive Committee shall meet at least annually.
- 343 5. The Executive Committee shall have the following Duties and responsibilities:
- 344 a. Recommend to the entire Commission changes to the Rules or bylaws, changes to
345 this Compact legislation, fees paid by Compact Member States such as annual dues,
346 and any Commission Compact fee charged to Licensees for the Compact Privilege;
- 347 b. Ensure Compact administration services are appropriately provided, contractual or
348 otherwise;
- 349 c. Prepare and recommend the budget;

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- 350 d. Maintain financial records on behalf of the Commission;
- 351 e. Monitor Compact compliance of Member States and provide compliance reports to
352 the Commission;
- 353 f. Establish additional committees as necessary; and
- 354 g. Other duties as provided in Rules or bylaws.

355 E. Meetings of the Commission

- 356 1. All meetings shall be open to the public, and public notice of meetings shall be given in
357 the same manner as required under the Rulemaking provisions in Section 10.
- 358 2. The Commission or the Executive Committee or other committees of the Commission
359 may convene in a closed, non-public meeting if the Commission or Executive Committee
360 or other committees of the Commission must discuss:
 - 361 a. Non-compliance of a Member State with its obligations under the Compact;
 - 362 b. The employment, compensation, discipline or other matters, practices or procedures
363 related to specific employees or other matters related to the Commission's internal
364 personnel practices and procedures;
 - 365 c. Current, threatened, or reasonably anticipated litigation;
 - 366 d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real
367 estate;
 - 368 e. Accusing any person of a crime or formally censuring any person;
 - 369 f. Disclosure of trade secrets or commercial or financial information that is privileged or
370 confidential;
 - 371 g. Disclosure of information of a personal nature where disclosure would constitute a
372 clearly unwarranted invasion of personal privacy;
 - 373 h. Disclosure of investigative records compiled for law enforcement purposes;
 - 374 i. Disclosure of information related to any investigative reports prepared by or on
375 behalf of or for use of the Commission or other committee charged with responsibility
376 of investigation or determination of compliance issues pursuant to the Compact; or
 - 377 j. Matters specifically exempted from disclosure by federal or Member State statute.
- 378 3. If a meeting, or portion of a meeting, is closed pursuant to this provision, the
379 Commission's legal counsel or designee shall certify that the meeting may be closed and
380 shall reference each relevant exempting provision.

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381 4. The Commission shall keep minutes that fully and clearly describe all matters discussed
382 in a meeting and shall provide a full and accurate summary of actions taken, and the
383 reasons therefore, including a description of the views expressed. All documents
384 considered in connection with an action shall be identified in such minutes. All minutes
385 and documents of a closed meeting shall remain under seal, subject to release by a
386 majority vote of the Commission or order of a court of competent jurisdiction.

387 F. Financing of the Commission

388 1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its
389 establishment, organization, and ongoing activities.

390 2. The Commission may accept any and all appropriate revenue sources, donations, and
391 grants of money, equipment, supplies, materials, and services.

392 3. The Commission may levy on and collect an annual assessment from each Member
393 State or impose fees on other parties to cover the cost of the operations and activities of
394 the Commission and its staff, which must be in a total amount sufficient to cover its
395 annual budget as approved by the Commission each year for which revenue is not
396 provided by other sources. The aggregate annual assessment amount shall be allocated
397 based upon a formula to be determined by the Commission, which shall promulgate a
398 Rule binding upon all Member States.

399 4. The Commission shall not incur obligations of any kind prior to securing the funds
400 adequate to meet the same; nor shall the Commission pledge the credit of any of the
401 Member States, except by and with the authority of the Member State.

402 5. The Commission shall keep accurate accounts of all receipts and disbursements. The
403 receipts and disbursements of the Commission shall be subject to the audit and
404 accounting procedures established under its bylaws. However, all receipts and
405 disbursements of funds handled by the Commission shall be audited yearly by a certified
406 or licensed public accountant, and the report of the audit shall be included in and
407 become part of the annual report of the Commission.

408 G. Qualified Immunity, Defense, and Indemnification

409 1. The members, officers, executive director, employees and representatives of the
410 Commission shall be immune from suit and liability, either personally or in their official
411 capacity, for any claim for damage to or loss of property or personal injury or other civil
412 liability caused by or arising out of any actual or alleged act, error or omission that
413 occurred, or that the person against whom the claim is made had a reasonable basis for
414 believing occurred within the scope of Commission employment, duties or
415 responsibilities; provided that nothing in this paragraph shall be construed to protect any

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416 such person from suit and/or liability for any damage, loss, injury, or liability caused by
417 the intentional or willful or wanton misconduct of that person.

418 2. The Commission shall defend any member, officer, executive director, employee or
419 representative of the Commission in any civil action seeking to impose liability arising out
420 of any actual or alleged act, error, or omission that occurred within the scope of
421 Commission employment, duties, or responsibilities, or that the person against whom the
422 claim is made had a reasonable basis for believing occurred within the scope of
423 Commission employment, duties, or responsibilities; provided that nothing herein shall
424 be construed to prohibit that person from retaining his or her own counsel; and provided
425 further, that the actual or alleged act, error, or omission did not result from that person's
426 intentional or willful or wanton misconduct.

427 3. The Commission shall indemnify and hold harmless any member, officer, executive
428 director, employee, or representative of the Commission for the amount of any
429 settlement or judgment obtained against that person arising out of any actual or alleged
430 act, error or omission that occurred within the scope of Commission employment, duties,
431 or responsibilities, or that such person had a reasonable basis for believing occurred
432 within the scope of Commission employment, duties, or responsibilities, provided that
433 the actual or alleged act, error, or omission did not result from the intentional or willful or
434 wanton misconduct of that person.

435 **SECTION 9. DATA SYSTEM**

436 A. The Commission shall provide for the development, maintenance, and utilization of a
437 coordinated database and reporting system containing licensure, Adverse Action, and
438 Investigative Information on all licensed individuals in Member States.

439 B. A Member State shall submit a uniform data set to the Data System on all individuals to
440 whom this Compact is applicable as required by the Rules of the Commission, including:

441 1. Identifying information;

442 2. Licensure data;

443 3. Adverse Actions against a license or Compact Privilege;

444 4. Non-confidential information related to Alternative Program participation;

445 5. Any denial of application for licensure, and the reason(s) for such denial; and

446 6. Other information that may facilitate the administration of this Compact, as determined
447 by the Rules of the Commission.

448 7. Current Significant Investigative Information.

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- 449 C. Investigative Information pertaining to a Licensee in any Member State will only be available
450 to other Member States.
- 451 D. The Commission shall promptly notify all Member States of any Adverse Action taken
452 against a Licensee or an individual applying for a license. Adverse Action information
453 pertaining to a Licensee in any Member State will be available to any other Member State.
- 454 E. Member States contributing information to the Data System may designate information that
455 may not be shared with the public without the express permission of the contributing
456 State.
- 457 F. Any information submitted to the Data System that is subsequently required to be expunged
458 by the laws of the Member State contributing the information shall be removed from the
459 Data System.

460 SECTION 10. RULEMAKING

- 461 A. The Commission shall exercise its Rulemaking powers pursuant to the criteria set forth in
462 this Section and the Rules adopted thereunder. Rules and amendments shall become
463 binding as of the date specified in each Rule or amendment.
- 464 B. If a majority of the legislatures of the Member States rejects a Rule, by enactment of a
465 statute or resolution in the same manner used to adopt the Compact within 4 years of the
466 date of adoption of the Rule, then such Rule shall have no further force and effect in any
467 Member State.
- 468 C. Rules or amendments to the Rules shall be adopted at a regular or special meeting of the
469 Commission.
- 470 D. Prior to promulgation and adoption of a final Rule or Rules by the Commission, and at least
471 thirty (30) days in advance of the meeting at which the Rule will be considered and voted
472 upon, the Commission shall file a Notice of Proposed Rulemaking:
- 473 1. On the website of the Commission or other publicly accessible platform; and
- 474 2. On the website of each Member State Occupational Therapy Licensing Board or other
475 publicly accessible platform or the publication in which each State would otherwise
476 publish proposed Rules.
- 477 E. The Notice of Proposed Rulemaking shall include:
- 478 1. The proposed time, date, and location of the meeting in which the Rule will be
479 considered and voted upon;
- 480 2. The text of the proposed Rule or amendment and the reason for the proposed Rule;

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- 481 3. A request for comments on the proposed Rule from any interested person; and
- 482 4. The manner in which interested persons may submit notice to the Commission of their
483 intention to attend the public hearing and any written comments.
- 484 F. Prior to adoption of a proposed Rule, the Commission shall allow persons to submit written
485 data, facts, opinions, and arguments, which shall be made available to the public.
- 486 G. The Commission shall grant an opportunity for a public hearing before it adopts a Rule or
487 amendment if a hearing is requested by:
- 488 1. At least twenty-five (25) persons;
- 489 2. A State or federal governmental subdivision or agency; or
- 490 3. An association or organization having at least twenty-five (25) members.
- 491 H. If a hearing is held on the proposed Rule or amendment, the Commission shall publish the
492 place, time, and date of the scheduled public hearing. If the hearing is held via electronic
493 means, the Commission shall publish the mechanism for access to the electronic hearing.
- 494 1. All persons wishing to be heard at the hearing shall notify the executive director of the
495 Commission or other designated member in writing of their desire to appear and testify
496 at the hearing not less than five (5) business days before the scheduled date of the
497 hearing.
- 498 2. Hearings shall be conducted in a manner providing each person who wishes to comment
499 a fair and reasonable opportunity to comment orally or in writing.
- 500 3. All hearings will be recorded. A copy of the recording will be made available on request.
- 501 4. Nothing in this section shall be construed as requiring a separate hearing on each Rule.
502 Rules may be grouped for the convenience of the Commission at hearings required by
503 this section.
- 504 I. Following the scheduled hearing date, or by the close of business on the scheduled hearing
505 date if the hearing was not held, the Commission shall consider all written and oral
506 comments received.
- 507 J. If no written notice of intent to attend the public hearing by interested parties is received, the
508 Commission may proceed with promulgation of the proposed Rule without a public hearing.
- 509 K. The Commission shall, by majority vote of all members, take final action on the proposed
510 Rule and shall determine the effective date of the Rule, if any, based on the Rulemaking
511 record and the full text of the Rule.

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- 512 L. Upon determination that an emergency exists, the Commission may consider and adopt an
513 emergency Rule without prior notice, opportunity for comment, or hearing, provided that the
514 usual Rulemaking procedures provided in the Compact and in this section shall be
515 retroactively applied to the Rule as soon as reasonably possible, in no event later than
516 ninety (90) days after the effective date of the Rule. For the purposes of this provision, an
517 emergency Rule is one that must be adopted immediately in order to:
- 518 1. Meet an imminent threat to public health, safety, or welfare;
 - 519 2. Prevent a loss of Commission or Member State funds;
 - 520 3. Meet a deadline for the promulgation of an administrative Rule that is established by
521 federal law or Rule; or
 - 522 4. Protect public health and safety.
- 523 M. The Commission or an authorized committee of the Commission may direct revisions to a
524 previously adopted Rule or amendment for purposes of correcting typographical errors,
525 errors in format, errors in consistency, or grammatical errors. Public notice of any revisions
526 shall be posted on the website of the Commission. The revision shall be subject to challenge
527 by any person for a period of thirty (30) days after posting. The revision may be challenged
528 only on grounds that the revision results in a material change to a Rule. A challenge shall be
529 made in writing and delivered to the chair of the Commission prior to the end of the notice
530 period. If no challenge is made, the revision will take effect without further action. If the
531 revision is challenged, the revision may not take effect without the approval of the
532 Commission.

533 **SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT**

- 534 A. Oversight
- 535 1. The executive, legislative, and judicial branches of State government in each Member
536 State shall enforce this Compact and take all actions necessary and appropriate to
537 effectuate the Compact's purposes and intent. The provisions of this Compact and the
538 Rules promulgated hereunder shall have standing as statutory law.
 - 539 2. All courts shall take judicial notice of the Compact and the Rules in any judicial or
540 administrative proceeding in a Member State pertaining to the subject matter of this
541 Compact which may affect the powers, responsibilities or actions of the Commission.
 - 542 3. The Commission shall be entitled to receive service of process in any such proceeding,
543 and shall have standing to intervene in such a proceeding for all purposes. Failure to
544 provide service of process to the Commission shall render a judgment or order void as to
545 the Commission, this Compact, or promulgated Rules.

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546 B. Default, Technical Assistance, and Termination

- 547 1. If the Commission determines that a Member State has defaulted in the performance of
548 its obligations or responsibilities under this Compact or the promulgated Rules, the
549 Commission shall:
 - 550 a. Provide written notice to the defaulting State and other Member States of the nature
551 of the default, the proposed means of curing the default and/or any other action to be
552 taken by the Commission; and
 - 553 b. Provide remedial training and specific technical assistance regarding the default.
- 554 2. If a State in default fails to cure the default, the defaulting State may be terminated from
555 the Compact upon an affirmative vote of a majority of the Member States, and all rights,
556 privileges and benefits conferred by this Compact may be terminated on the effective
557 date of termination. A cure of the default does not relieve the offending State of
558 obligations or liabilities incurred during the period of default.
- 559 3. Termination of membership in the Compact shall be imposed only after all other means
560 of securing compliance have been exhausted. Notice of intent to suspend or terminate
561 shall be given by the Commission to the governor, the majority and minority leaders of
562 the defaulting State's legislature, and each of the Member States.
- 563 4. A State that has been terminated is responsible for all assessments, obligations, and
564 liabilities incurred through the effective date of termination, including obligations that
565 extend beyond the effective date of termination.
- 566 5. The Commission shall not bear any costs related to a State that is found to be in default
567 or that has been terminated from the Compact, unless agreed upon in writing between
568 the Commission and the defaulting State.
- 569 6. The defaulting State may appeal the action of the Commission by petitioning the U.S.
570 District Court for the District of Columbia or the federal district where the Commission
571 has its principal offices. The prevailing member shall be awarded all costs of such
572 litigation, including reasonable attorney's fees.

573 C. Dispute Resolution

- 574 1. Upon request by a Member State, the Commission shall attempt to resolve disputes
575 related to the Compact that arise among Member States and between member and non-
576 Member States.
- 577 2. The Commission shall promulgate a Rule providing for both mediation and binding
578 dispute resolution for disputes as appropriate.

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579 D. Enforcement

- 580 1. The Commission, in the reasonable exercise of its discretion, shall enforce the
581 provisions and Rules of this Compact.
- 582 2. By majority vote, the Commission may initiate legal action in the United States District
583 Court for the District of Columbia or the federal district where the Commission has its
584 principal offices against a Member State in default to enforce compliance with the
585 provisions of the Compact and its promulgated Rules and bylaws. The relief sought may
586 include both injunctive relief and damages. In the event judicial enforcement is
587 necessary, the prevailing member shall be awarded all costs of such litigation, including
588 reasonable attorney's fees.
- 589 3. The remedies herein shall not be the exclusive remedies of the Commission. The
590 Commission may pursue any other remedies available under federal or State law.

591 **SECTION 12. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR** 592 **OCCUPATIONAL THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND** 593 **AMENDMENT**

- 594 A. The Compact shall come into effect on the date on which the Compact statute is enacted
595 into law in the tenth Member State. The provisions, which become effective at that time,
596 shall be limited to the powers granted to the Commission relating to assembly and the
597 promulgation of Rules. Thereafter, the Commission shall meet and exercise Rulemaking
598 powers necessary to the implementation and administration of the Compact.
- 599 B. Any State that joins the Compact subsequent to the Commission's initial adoption of the
600 Rules shall be subject to the Rules as they exist on the date on which the Compact
601 becomes law in that State. Any Rule that has been previously adopted by the Commission
602 shall have the full force and effect of law on the day the Compact becomes law in that State.
- 603 C. Any Member State may withdraw from this Compact by enacting a statute repealing the
604 same.
 - 605 1. A Member State's withdrawal shall not take effect until six (6) months after enactment of
606 the repealing statute.
 - 607 2. Withdrawal shall not affect the continuing requirement of the withdrawing State's
608 Occupational Therapy Licensing Board to comply with the investigative and Adverse
609 Action reporting requirements of this act prior to the effective date of withdrawal.
- 610 D. Nothing contained in this Compact shall be construed to invalidate or prevent any
611 Occupational Therapy licensure agreement or other cooperative arrangement between a

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612 Member State and a non-Member State that does not conflict with the provisions of this
613 Compact.

614 E. This Compact may be amended by the Member States. No amendment to this Compact
615 shall become effective and binding upon any Member State until it is enacted into the laws
616 of all Member States.

617 **SECTION 13. CONSTRUCTION AND SEVERABILITY**

618 This Compact shall be liberally construed so as to effectuate the purposes thereof. The
619 provisions of this Compact shall be severable and if any phrase, clause, sentence or
620 provision of this Compact is declared to be contrary to the constitution of any Member State
621 or of the United States or the applicability thereof to any government, agency, person or
622 circumstance is held invalid, the validity of the remainder of this Compact and the
623 applicability thereof to any government, agency, person or circumstance shall not be
624 affected thereby. If this Compact shall be held contrary to the constitution of any Member
625 State, the Compact shall remain in full force and effect as to the remaining Member States
626 and in full force and effect as to the Member State affected as to all severable matters.

627 **SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS**

628 A. A Licensee providing Occupational Therapy in a Remote State under the Compact Privilege
629 shall function within the laws and regulations of the Remote State.

630 B. Nothing herein prevents the enforcement of any other law of a Member State that is not
631 inconsistent with the Compact.

632 C. Any laws in a Member State in conflict with the Compact are superseded to the extent of the
633 conflict.

634 D. Any lawful actions of the Commission, including all Rules and bylaws promulgated by the
635 Commission, are binding upon the Member States.

636 E. All agreements between the Commission and the Member States are binding in accordance
637 with their terms.

638 F. In the event any provision of the Compact exceeds the constitutional limits imposed on the
639 legislature of any Member State, the provision shall be ineffective to the extent of the conflict
640 with the constitutional provision in question in that Member State.